



# *Produce Packaging, Inc.*



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7 April, 2003

Country of Origin Labeling Program  
Agricultural Marketing Service  
USDA, Stop 0249, Room 2092-S  
1400 Independence Ave., SW  
Washington, DC 20250-0249

To Whom It May Concern:

The purpose of this letter is to express our concerns with the Guidelines for the Interim Voluntary Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, etc., (hereinafter referred to as the "Guidelines") as delineated in the Federal Register Vol. 67, No. 198 of 11 October, 2002.

Produce Packaging, Inc. (PPI) is a regional tomato repacker and fresh-cut processor located in Cleveland, OH. We have been in the fresh-cut business since 1996 and a member of the International Fresh-cut Produce Association (IFPA) since that time. As far as our processing, we specialize in fresh-cut fruit. We began processing pineapple for one of our retail chain customers at their request and have greatly expanded our product line from there to include fresh-cut melons, citrus, and all kinds of vegetables. Our website is [www.producepackagingltd.com](http://www.producepackagingltd.com).

The following topics will be addressed:

1. A review of the Guidelines as to how we interpret they will apply to our operation.
2. How we intend to implement the Guidelines
3. Costs associated with the implementation of the Guidelines
4. Recommendations

## The Guidelines and how they apply to PPI

The Guidelines are "for voluntary use by retailers who wish to notify their customers of the country of origin of...perishable agricultural commodities." Section 10816 of Public Law 107-171 (Farm Security and Rural Investment Act of 2002) requires the Secretary of

Agriculture to “promulgate requirements for mandatory labeling” by 30 September, 2004. Willful violations of the (mandatory) requirements will subject retailers (thus PPI, as fines relating to our products are passed on to us) to penalties up to \$10,000 per violation.

The Food Marketing Institute (FMI) however, is strongly recommending retailers to “start working with their suppliers immediately to ensure that the necessary information will be available to minimize liability in 2004.” Retailers constitute a significant percentage (approximately 85%) of our fresh-cut business. Our largest retail account has mandated that we begin country of origin labeling (COOL) ASAP. Therefore, the voluntary guidelines for retailers are currently mandatory for our company (if we want to retain our business with the customer).

We have concluded the initial phase of determining how to comply with COOL at PPI. For certain segments of our business, compliance will not be burdensome, but will require the printing of new labels to indicate country-of-origin (COO), and will require the stocking of labels for each COO. For example, in our tomato repacking operation, we package tomatoes for retail sale in three, four, and six-packs. The tomatoes are procured almost exclusively from the United States, Canada, or Mexico. So for this operation, we will now have to stock three different labels for each item – one that says, “United States Country of Origin,” one “Canada Country of Origin,” and one “Mexico Country of Origin.”

Furthermore, in our fresh-cut operation, COOL compliance for fresh-cut vegetables is not very difficult at all, since approximately 99% of the vegetables that we process are grown and packed in the United States. Since we make our ingredient labels in-house, we simply added the line “United States Country of Origin” to the labels of the vegetable products.

Compliance with regard to fresh-cut fruit is going to be exceedingly difficult, however, and therefore costly. As we interpret the Guidelines, if a covered commodity is used as an ingredient in a processed food item (here, fresh-cut produce), it remains a covered commodity after it is processed so long as neither of the following conditions are met:

1. The resulting product does not have an “identity that is different from that of the covered commodity,” or
2. The resulting product is not “materially changed to the point that its character is substantially different from that of the covered commodity.”

These mean that all of our fresh-cut fruit items would be covered by the Guidelines.

## Implementation

Complying with the Guidelines will require us to develop more stringent traceback accountability than what we currently have. In essence, each produce item's COO will have to be tracked through our system – from receiving through production. Additional steps that we will have to take have been identified as follows:

1. All original produce cases will have to be tagged with its incoming lot number.
2. A QA form will need to be filled out upon receipt of all produce detailing type of produce, lot number, vendor name, COO, and quantity.
3. A new COO worksheet will have to be filled out at the start of production. The lot number, brand, and COO for each item to be processed will need to be recorded.
4. This worksheet will be turned over to the label technician who will enter the information on the labels for every retail item.
5. A notation shall be made by any item that will have more than one COO for that day's production. The production supervisor will then take the following steps:
  - A) The produce item from the first country will be completely processed, labeled with COO, and segregated by location.
  - B) The same produce item from every subsequent country will be completely processed, labeled with COO and segregated by location until the desired quantity of that produce item is processed.
  - C) All of these activities will be documented on the COO worksheet.
6. Product that is carried over will be labeled with COO prior to storing. This product will be used first for the following day's orders.
7. All COO worksheets will have to be stored for two years as required by the Guidelines.

We have estimated that complying with COOL requirements for our fresh-cut fruit operation will require the hiring of another full-time QA technician (at a cost of about \$36,000/yr.). Her job will mainly entail compliance with new COOL policy as outlined above. Where the job becomes extremely problematic for fresh-cut fruit, as for possibly no other covered commodity, is “the nature of the beast,” so to speak.

The year-round production of fresh-cut fruit requires produce to be procured from a wide variety of different countries. Following is a sample of our ingredients and the countries from which they are procured:

Cantaloupe – United States, Mexico, Honduras, Costa Rica, Dominican Republic

Honeydew – same as above  
Watermelon – same as above  
Grapes – United States, Mexico, Chile  
Citrus – United States  
Pineapple – United States, Mexico, Equador, Honduras  
Mango – numerous

Difficulties in COOL compliance for fresh-cut fruit stem from three main areas:

1. Our produce is procured from various countries at different times of the year
2. When we run out of one lot we have to complete production with another lot with a potentially different COO than the first. Our incoming lot sizes are small (generally no more than half a truckload, but on average, about 5 pallets). We do not buy in larger quantities because our production runs are relatively small. Our volume is not large enough to justify buying straight loads of product like larger processors. This would simplify COO compliance because there would be fewer possible changeovers to worry about. Furthermore, since fresh-cut fruit is such a perishable product, we have to buy in smaller quantities to maintain freshness and maximum shelf-life of our product.
3. Mixes are extremely problematic.
  - A) When making our fruit salad mix, for example, which contains cantaloupe, honeydew, red seedless grapes, and blueberries, there are possibly 225 different combinations (5 X 5 X 3 X 3) of countries that could satisfy the COOL requirement. This would add a significant degree of difficulty to our production process (thus adding cost) in that our labeling operation would have to completely change.
  - B) We currently pre-label all of our containers because the size of our runs is small (1-50 cases per item, 1-6 units/case). The costs for automatic labeling equipment are not justified by our volume because in addition to the cost of the equipment, we would need to have a full-time person run that equipment for the amount of changes that would need to be made.
  - C) Furthermore, since our operation is relatively small, we have different finished products running down the same lines, eliminating the possibility of using such packaging efficiencies as ink-jet coders because standardization is impossible from an efficiency standpoint. That is, the addition of such machinery would decrease efficiency. The finished products are then discharged onto a turntable, and packaging personnel select which units to pack. Automated labeling equipment would not be feasible in such a set-up, and we have neither the space nor the resources for expansion of our warehouse simply to comply with COOL.

## Costs of Implementation of Voluntary Guidelines

We have estimated the cost of compliance with the Guidelines for fresh-cut fruit as follows:

1. Direct costs for our fresh-cut fruit operation
  - A) We will need to hire an additional QA Technician (approx. 200 hours/mo.) to assure compliance with COO data collection, record keeping, label making, etc. At \$15/man-hour (to include Workers' Comp. benefits, unemployment insurance, etc.), this is about \$3000/mo.
  - B) Additional downtime will result from employees having to wait for a lot of produce to clear processing. When we approach the end of a lot, we will need to insure separation of that lot from the next when the latter is from another country. The produce will therefore have to be completely rinsed, peeled, cut, packaged, and stored before a new lot can be processed. We estimate about one of these periods/day, 8 employees per period, for about 15 minutes of additional downtime daily. This equates to about 52 man-hours/mo. or \$780/mo.
  - C) We will need another 2 man-hours/day to make our custom labels. This is about \$780/mo.
  - D) Supplies.
    - i) We will need another 3 forms/day and storage for those for 2 years. Filing cabinets will be about \$400, while the forms themselves will be only about \$2/mo.
    - ii) The current guidelines require retailers to maintain records at store level for two years. Of course, our customers are going to require us to provide this information to them, so we are initially going to figure placing an insert into each master container stating the COO of the enclosed product. This would cost approx. \$677/mo. (at \$0.02/ea.) for the forms alone, based on our current volume. Labor to put those forms in the master containers would be additional.
    - iii) Currently, we are hoping to get all of the extra COO information on our existing label. However, once we actually get into it, we may find that we need to move to a bigger or additional label to comply with the Guidelines. These costs are not included here.
  - E) All totaled, this comes to about \$5239/mo. for our fresh-cut fruit products, plus a one-time \$400 for filing cabinets. This represents more than a 2% increase in our total cost of sales for our fresh-cut department.
2. Indirect costs for our fresh-cut fruit operation - This is an area where we could lose significant money, but we have no way of knowing exactly what they would be at this time. Included in this area are:

- A) Disposing of the remainder of a produce lot before it is all processed - We can foresee that it may make more sense to dispose (i.e., sell wholesale for a discounted price) of the remaining 1-20 cases of a lot of cantaloupe, for example, than to start off the day's production with that amount, only to have to move to another lot of cantaloupe from a different country. The amount of hassle and additional expense involved with COOL would outweigh the loss that we'd incur through such a disposition.
- B) Disposition of carryover – Depending on our orders for the day, it may make more sense to dump our carried over in-process product (e.g. cantaloupe chunks) from the previous day than to put it into production with produce with a different COO. Again, that loss may outweigh the hassle and expense of having to deal with the COOL Guidelines.
- C) Increased shrink – both of the above cases may contribute to increased shrink, increasing our cost of sales.
- D) Increased procurement costs/decreased quality – It may make more sense for our produce buyer to pay more for product which comes all from one country than to buy as he currently is, that is, buying the best product at the best price regardless of COO.
- E) Lost sales – We may lose sales due to COOL requirements for a few reasons:
- i) Because fresh-cut fruit is such a highly perishable product, we allow our retail chain customers to adjust their orders 6-18 hours before delivery. With the mandate of COOL, if our customer revises its order to include an additional 20 cases of 6/12 oz. cantaloupe chunks, for example, we may decide that it's just not worth the trouble (i.e., we would probably lose money) packing the additional amount in its own production run.
  - ii) If the Guidelines go into effect as they currently are, we will give serious consideration to eliminating fruit salad mixes from our product line. The amount of extra labor involved with keeping track of the COO of ingredients of a mixed product constitute an enormous increase in the cost of producing those items to the point where our customers would not agree to paying the amount of the additional costs. We may just want to concentrate on "straight" packs of products such as a 12-oz. cantaloupe chunk. Customers would have less variety to choose from in such a case, which was not the original intention of the law.
  - iii) Already I can foresee that the playing field may not be level for a company such as ours that has gone to great lengths to decipher and understand the COOL Guidelines and how we should implement them. For example, I visited a Safeway store in Washington State in late February that had Del Monte fresh-cut fruit. Del Monte had a line on its label "Product of

USA” at a time of year when melons and grapes could have only been imported to the U.S.

Now, I assume that Del Monte is figuring that this line will suffice for COOL. I would love to be able to do that also - it would save us all the aforementioned additional expense - but that is not what the Guidelines dictate. The Guidelines state that a label may state “a retailer shall label a covered commodity as having a ‘United States Country of Origin’ only if the following criteria are met...5. Fresh and Frozen Fruits and Vegetables...must be derived exclusively from produce...grown, packed, and, if applicable, processed in the United States.”

In the above instance, therefore, Del Monte is either A) Making a false claim on its label, or B) Assuming that its label satisfies COOL. In either case, they are incurring no extra expense to “comply” with COOL whereas our company will incur an enormous percentage increase in our expenses to properly comply with COOL.

- iv) Another example that I noticed in a Giant Eagle store just yesterday was new COOL on a Fresh Express salad pack. It read, “Product of United States and Chile.” Again, this does not conform to COOL in the current Guidelines, and since it is new, it makes me wonder if this is the direction that Fresh Express is going to take with regard to COOL. Therefore, again, if PPI were to properly conform to the Guidelines, the playing field would not be level as it is much less laborious to make a statement such as “Product of United States and Chile,”(or “Product of the United States, Chile, Ecuador, Mexico, and Honduras,” which might be our case).

3. Costs for other operations – Additional costs that PPI will incur in order to comply with the Guidelines are estimated as follows:

- A) Tomato Repacking – for our tomato repacking operation, the COOL compliance solution is relatively easy as the tomatoes we package are from one of only three countries – the United States, Canada, or Mexico. Basically, for COOL compliance we will have to stock three of each kind of label instead of just one. Therefore, our label inventory will simply have to be 300% of its current level. Since we currently stock about \$7,000 in labels for tomato repacking, this figure will jump to around \$21,000. The amount of increased material and labor costs in this area are not significant, but what is noteworthy is the increase in the amount of money that we’ll have to tie up in label inventory.
- B) Splits Repacking – About 10% of our business consists of repacking specialty peppers and all other types of bulk produce for those customers who do not wish to purchase a full case. These customers include retailers who will be subject to

the COOL Guidelines. Since we make all of these labels in-house on blank stock, we will not incur additional expense in label inventory. However, additional labor and material costs will be incurred in that we will have to track COO for the retailer (in a manner similar to that method delineated above for fresh-cut fruit). At present, I estimate these additional costs will be \$250 – 500/mo. for this part of our company's business.

### Recommendations

1. Small companies that do not sell over a specified amount of a fresh-cut produce item should be exempt from compliance with COOL. Those companies that have larger production runs (i.e. more significant volume) can afford equipment to gain more efficient practices in their production, and so would be more able to comply with the present COOL Guidelines without an undue hardship. As smaller companies built up their business, they would have to comply on a "per item" basis based on particular item volume, similar to the exemptions recently in place for nutritional labeling.
2. If the above type of enforcement would be too confusing for the USDA when doing inspections at retail level (since it is the retailer that is being regulated), or regardless, to satisfy COOL I also recommend that mixed fresh-cut products simply state the names of countries their ingredients possibly originated from - a "may contain" line, if you will. For example, a fresh-cut fruit salad with cantaloupe from Costa Rica, honeydew from Honduras, and grapes from Chile might read, "May contain cantaloupe, honeydew, and grapes from Chile, Ecuador, Honduras, Costa Rica, Mexico, or the United States. Processed in the United States." This would give the smaller manufacturer, such as PPI, more flexibility and significantly reduce costs involved with compliance.
3. Another suggestion that my QA manager had would not reduce the costs of implementation so much, but it would make the label less detailed and confusing. His idea would be to allow a processor to designate COO in the ingredient portion of the nutritional label. For example, our mixed fruit salad may then state, "May contain cantaloupe (Costa Rica), honeydew (Honduras), and grapes (Chile)." In other words, we could add the COO information on an already existing part of the label.

A major potential problem for us is that we may have to go out and get new, larger labels for all of our fresh-cut products in order to include the COO information. That would be a shame because we already feel that there is "too much label" on many of our items. Before long, one will not be able to see the product in the container!

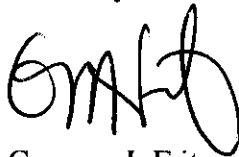


4. Finally, COOL compliance must be fair! Enforcement must be equitable and consistent throughout the fresh-cut industry. Since suppliers are ultimately going to be the ones that have to provide COO information to retailers, the revised Guidelines should include provisions for assuring uniformity of labeling nomenclature to help provide a level playing field among processors.

#### Conclusion

Of course, my wish is that mandatory Country-of-Origin labeling for fresh-cut produce will "go away," but evidently that's not going to happen. Certainly, proper compliance will be a significant and onerous burden on the small processor. However, I hope that my comments with regard to our situation will help shape policy and give further testimony to the tremendous costs that COOL will place on the industry. I am certainly available to testify further about our situation either in writing, over the phone, or in person. Please let me know if I can be of further assistance with regard to COOL input.

Sincerely,



Gregory J. Fritz  
Vice President

Cc: James Gorny, Ph.D., IFPA  
Alan Wood, The Sanson Company  
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